

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David M. & Maxine Bartels,
Petitioners-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-30-0684
Parcel No. 03-09-203-010

On October 14, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants David M. and Maxine Bartels (Bartels) were represented by Attorney Michael J. Houchins, of Zenor and Houchins, P.C., Spencer, Iowa. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. The parties agreed to this appeal being considered without hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

• Bartels, owners of property located on McClelland Lane, Spirit Lake, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a 1120 square-foot detached garage built in 1989. The garage is in normal condition and has a 4 quality grade. It is situated on a 0.208 acre site on McClelland's Beach, an off-shore lot, on the north side of Big Spirit Lake.

The improvement is situated on Lot 115 with 63.00 feet of front frontage, 58.00 feet of rear frontage, a depth of 150.00 on one side and a depth of 150.06 feet on the other. The parcel has 61.33 effective front feet, and an \$800 per effective front foot unit price.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$66,800, representing \$46,100 in land value and \$20,700 in improvement value. This was a change from the 2009 assessment.

Bartels protested to the Board of Review on the ground the assessment was not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a), and that the property was assessed for more than authorized by law under section 441.37(1)(b). Bartels sought the land portion of the assessment be reduced to \$40,000.

The Board of Review denied the protest. Bartels then appealed to this Board asserting the same grounds.

According to the Board of Review, McClelland's Beach was formerly used exclusively as rental real estate by tenant-leaseholders who constructed dwellings which were their personal properties on leased land. In 2007, the McClelland's Beach Subdivision was surveyed and platted. The subdivision received the benefit of the three-year platting law under section 441.72 for assessment years 2007, 2008, and 2009. The adjustments were removed for the 2010 assessments, changing and substantially increasing the property assessments.

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of lakeshore or road frontage by adjusting the actual footage by a depth factor (Exhibit A), then multiplying the result by a unit price. The assessor uniformly applied a unit price of \$800 per *effective* front foot to off-shore lots 109, 110, 111, 112, 113, 115, 120 and 121 in this lake area¹ that was applied

¹ Lot 107 is assessed at \$400 per effective front foot.

to the subject property.² The following chart summarizes the Board of Review exhibits showing the land assessment of the subject property:

FF	EFF	Unit Price	AV Land	AV per EFF	BOR Adjust	BOR Land Value	Appellant Value
63.00	61.33	\$ 800	\$ 46,100	\$ 752	None	\$46,100	\$ 40,000

We note Bartels used a different method of calculating the unit values of the properties than used by the assessor. Bartels' method failed to consider or apply any depth, shape, or map factor to the properties. The assessor considered these factors to calculate *effective* front feet, as opposed to the unadjusted front-foot measurements used by Bartels and the settlement terms.

The Board of Review provided partial property record cards for four land sales of lots similar to the subject property (Exhibits C-F) and a map showing the location of the parcels (Exhibit G). The following summarizes the sale and assessment information for these properties:

Address	Date of Sale	Sale Price	Effective Front Foot	Unit Pricing	Land Assessed Value	Sales Price Per Effective Front Foot	Assessed Per Effective Front Foot
Subject Property			61.33	\$800	\$46,100		\$752
Lot 105	07/31/2007	\$49,208	53.47	\$800	\$40,200	920	\$752
Lot 107	05/26/2010	\$48,000	55.03	\$400	\$20,700	872	\$376
Lot 114	07/03/2008	\$48,000	58.82	\$800	\$44,200	816	\$752
Lot 118	07/27/2007	\$43,072	55.89	\$800	\$40,200	771	\$719

The sales listed above occurred between 2007 and 2010. We note the four properties were all sold for more than their assessed value at the time of sale and the 2010 assessed values are still lower than the sale prices. The assessed value per *effective* front foot of the subject property is within the range of assessed values per-square foot for the comparable sale properties and is assessed at the median of \$752 per *effective* front foot.

² We note PAAB has considered additional common evidence filed in companion Dockets 10-30-0615 thru 0677 and 10-30-0680 concerning off-shore lots at McClelland Beach.

Reviewing the record, we find the preponderance of the evidence does not support the Bartels' contention their assessment is inequitable. We find the Board of Review's explanation of land pricing was reasonable and the method was applied uniformly to other lakefront and off-lake lots in Bartels' area and do not reflect inequitable assessment. Additionally, actual sale prices of similarly-situated leased lots do not support Bartels' claims that the property is assessed for more than authorized by law. We are unable to determine how Bartels arrived at their proposed value of \$40,000. No evidence was offered to support the fair market value they seek. We believe the preponderance of the evidence fails to prove inequitable assessments or over-assessments of Bartels' property as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

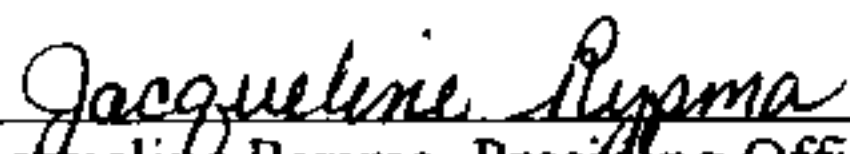
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Bartels failed to prove inequity under either of these methods.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). But this Board must be presented with more than just general assertions of what affects market value. We must look at market data to determine whether the property is assessed for more than authorized by law. In this instance, Bartels did not present any quantifiable data to show their property was over-assessed. The Board of Review presented sales of comparable properties that showed the subject property was not over-assessed. We find Bartels failed to provide sufficient proof their property is over-assessed and they failed to provide proof of the fair market value of the subject property.

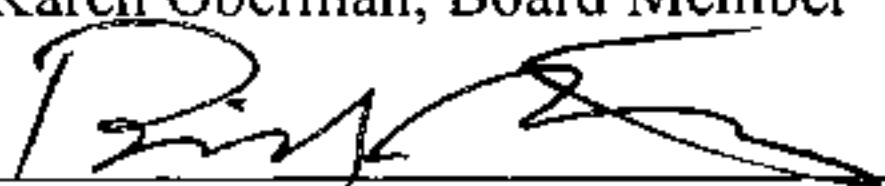
Viewing the record as a whole, we determine the preponderance of the evidence does not support the Bartels’ claims of inequitable assessment and over-assessment as of January 1, 2010.

THE APPEAL BOARD ORDERS the January 1, 2010, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 7 day of December 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-7</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature:	